

IFW

CASE HM/5-21810/A/PCT/DIV

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

Group Art Unit: 1617

WERNER HÖLZL ET AL

Examiner: T. J. Criares

APPLICATION NO: 10/750,810

FILED: DECEMBER 31, 2003

FOR: MICROBICIDAL ACTIVE SUBSTANCES

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

REMARKS

Responsive to the restriction requirement set forth in the Office action, the claims of group II, claims 18-19 are elected for examination.

This restriction requirement is respectfully traversed as it is a restriction between product and process claims.

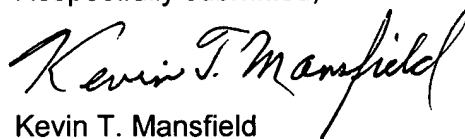
As the examiner notes, to facilitate examination under §103, where product and process claims are presented in the same application, applicant may be called upon under 35 U.S.C. § 121 to elect claims to either the product or process. The claims to the non-elected invention will be withdrawn from further consideration. However, in the case of an elected product claim, rejoinder will be permitted when a product claim is found allowable and the withdrawn process claim depends from or otherwise includes all the limitations of an allowed product claim. According to the Guidance of the the Commissioner of Patents and Trademarks' OG Notice concerning "Guidance on Treatment of Product

and Process Claims in light of In re Ochiai, In re Brouwer, and 35 U.S.C. § 103(b)", 1184 Off. Gaz.

Pat. Office 86 (March 26, 1996) in this regard, on finding the product claims to be allowable, rejoinder of the process claims is respectfully requested.

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Respectfully submitted,



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